

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

**OCT 03 2007**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

ROBERT T. TORRESDAL,	)	No. 05-35753
	)	
Plaintiff-Appellant,	)	D.C. No. CV-04-00954-BR
	)	
v.	)	<b>MEMORANDUM*</b>
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security	)	
Administration,	)	
	)	
Defendant-Appellee.	)	
_____	)	

Appeal from the United States District Court  
for the District of Oregon  
Anna J. Brown, District Judge, Presiding

Submitted September 24, 2007\*\*  
Portland, Oregon

Before: FERNANDEZ , SILVERMAN, and GRABER, Circuit Judges.

Robert Torresdal appeals the district court's determination that although, as the Commissioner of the Social Security Administration conceded, his case had to

---

\*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\*The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

be remanded, the remand would be for further proceedings rather than with a direction to pay disability benefits. We affirm.

Given the record in this case, including, but not limited to, the evidence of Torresdal's drug abuse problem,<sup>1</sup> we cannot say that the district court abused its discretion<sup>2</sup> when it remanded for further consideration by the Commissioner rather than for an immediate payment of benefits.

AFFIRMED.

---

<sup>1</sup>See 42 U.S.C. § 1382c(a)(3)(J); 20 C.F.R. § 416.935(a)-(b); Parra v. Astrue, 481 F.3d 742, 746 (9th Cir. 2007); see also Bustamante v. Massanari, 262 F.3d 949, 954–55 (9th Cir. 2001). Once the evidence of Torresdal's drug abuse surfaced, it was his burden to prove that drug abuse was not a material contributing factor to his disability, if any. See Parra, 481 F.3d at 747–48.

<sup>2</sup>Harman v. Apfel, 211 F.3d 1172, 1173, 1178 (9th Cir. 2000).